
Program Memorandum

Medicaid State Agencies

Department of Health &
Human Services (DHHS)
Centers for Medicare &
Medicaid Services (CMS)

Transmittal 02-1

Date: MAY 16, 2002

TO: STATE AGENCIES ADMINISTERING MEDICAL ASSISTANCE PROGRAMS

SUBJECT: TITLE XIX OF THE SOCIAL SECURITY ACT, POST-ELIGIBILITY
TREATMENT OF INCOME

STATUTORY
REFERENCES: Section 1902(a)17 of the Social Security Act.

The changes to the post-eligibility preprint are based on the following:

There are two changes in the Disclosure Statement. The change in the burden estimate, from 5 hours per response to 3 hours per response, as approved by OMB, July 30, 2001, and the Agency's name change, from the Health Care Financing Administration (HCFA) to the Centers for Medicare and Medicaid Services (CMS), since the last time the preprint was revised. The Paper Work Reduction Act requires the display of the OMB control number and the time required in completing this preprint. These changes are reflected in Supplement 12 to Attachment 2.6-A, Page 1 for the States, and in Supplement 7 to Attachment 2.6-A, Page 1, for the Territories.

There are no other changes to the preprint. States should use the revised preprint when amending the post-eligibility section of the state plan.

State:

Citation	Condition or Requirement
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B. Posteligibility Treatment of Institutionalized Individuals' Incomes

1. The following items are not considered in the posteligibility process:

- | | |
|--------------------------|---|
| 1902(o) of the Act | a. SSI and SSP benefits paid under §1611(e)(1)(E) and (G) of the Act to individuals who receive care in a hospital, nursing home, SNF, or ICF. |
| Bondi v. Sullivan (SSI) | b. Austrian Reparation Payments (pension (reparation) payments made under §500 - 506 of the Austrian General Social Insurance Act). Applies only if State follows SSI program rules with respect to the payments. |
| 1902(r)(1) of the Act | c. German Reparations Payments (reparation payments made by the Federal Republic of Germany). |
| 105/206 of P. L. 100-383 | d. Japanese and Aleutian Restitution Payments. |
| 1. (a) of P.L. 103-286 | e. Netherlands Reparation Payments based on Nazi, but not Japanese, persecution (during World War II). |
| 10405 of P.L. 101-239 | f. Payments from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In re Agent orange product liability litigation, M.D.L. No.381 (E.D.N.Y.) |
| 6(h)(2) of P.L. 101-426 | g. Radiation Exposure Compensation. |
| 12005 of P. L. 103-66 | h. VA pensions limited to \$90 per month under 38 U.S.C. 5503. |

TN No.
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TN No.

Approval Date _____ Effective Date

State:

Citation	Condition or Requirement
1924 of the Act 435.725 435.733 435.832	2. The following monthly amounts for personal needs are deducted from total monthly income in the application of an institutionalized individual's or couple's income to the cost of institutionalized care: Personal Needs Allowance (PNA) of not less than \$30 For Individuals and \$60 For Couples For All Institutionalized Persons. a. Aged, blind, disabled: Individuals \$ Couples \$ For the following persons with greater need: Supplement 12 to <u>Attachment 2.6-A</u> describes the greater need describes the basis or formula for determining the deductible amount when a specific amount is not listed above; lists the criteria to be met; and, where appropriate, identifies the organizational unit which determines that a criterion is met. b. AFDC related: Children \$ Adults \$ For the following persons with greater need: Supplement 12 to <u>Attachment 2.6-A</u> describes the greater need describes the basis or formula for determining the deductible amount when a specific amount is not listed above; lists the criteria to be met; and, where appropriate, identifies the organizational unit which determines that a criterion is met. c. Individual under age 21 covered in the plan as specified in Item B. 7. of <u>Attachment 2.2 -A</u> . \$

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State:

Citation	Condition or Requirement
1924 of the Act	<p data-bbox="570 386 1044 415">For the following persons with greater need:</p> <p data-bbox="570 447 1117 657">Supplement 12 to <u>Attachment 2.6-A</u> describes the greater need describes the basis or formula for determining the deductible amount when a specific amount is not listed above; lists the criteria to be met; and, where appropriate, identifies the organizational unit which determines that a criterion is met.</p> <p data-bbox="475 688 1443 751">3. In addition to the amounts under item 2. , the following monthly amounts are deducted from the remaining income of an institutionalized individual with a community spouse:</p> <p data-bbox="521 783 1443 930">a. The monthly income allowance for the community spouse, calculated using the formula in §1924(d)(2), is the amount by which the maintenance needs standard exceeds the community spouse's income. The maintenance needs standard cannot exceed the maximum prescribed in §1924 (d)(3)(C). The maintenance needs standard consists of a poverty level component plus an excess shelter allowance.</p> <p data-bbox="570 968 1109 1087">_____ The poverty level component is calculated using the applicable percentage (set out §1924(d)(3)(B) of the Act) of the official poverty level.</p> <p data-bbox="570 1119 1268 1266">_____ The poverty level component is calculated using a percentage greater than the applicable percentage, equal to _____%, of the official poverty level (still subject to maximum maintenance needs standard).</p> <p data-bbox="570 1297 1118 1392">_____ The maintenance needs standard for all community spouses is set at the maximum permitted by §1924(d)(3)(C).</p> <p data-bbox="570 1423 1297 1572">Except that, when applicable, the State will set the community spouse's monthly income allowance at the amount by which exceptional maintenance needs, established at a fair hearing, exceed the community spouse's income, or at the amount of any court-ordered support.</p>

State:

Citation	Condition or Requirement
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In determining any excess shelter allowance, utility expenses are calculated using:

_____ the standard utility allowance under §5(e) of the Food Stamp Act of 1977 or

_____ the actual unreimbursable amount of the community spouse's utility expenses less any portion of such amount included in condominium or cooperative charges.

b. The monthly income allowance for other dependent family members living with the community spouse is:

_____ one-third of the amount by which the poverty level component (calculated under §1924(d)(3)(A)(i) of the Act, using the applicable percentage specified in §1924 (d)(3)(B)) exceeds the dependent family member's monthly income.

_____ a greater amount calculated as follows:

The following definition is used in lieu of the definition provided by the Secretary to determine the dependency of family members under §1924 (d)(1):

c. Amounts for health care expenses described below that are incurred by and for the institutionalized individual and are not subject to payments by a third party:

(i) Medicaid, Medicare, and other health insurance premiums, deductibles, or coinsurance charges, or copayments.

(ii) Necessary medical or remedial care recognized under State law but not covered under the State plan. (Reasonable limits on amounts are described in Supplement 3 to ATTACHMENT 2.6-A.)

State:

Citation	Condition or Requirement
435.725 435.733 435.832	<p>4. In addition to any amounts deductible under the items above, the following monthly amounts are deducted from the remaining monthly income of an institutionalized individual or an institutionalized couple:</p> <p>a. An amount for the maintenance needs of each member of a family living in the institutionalized individual's home with no community spouse living in the home. The amount must be based on a reasonable assessment of need but must not exceed the higher of the:</p> <ul style="list-style-type: none">o AFDC level oro Medically needy level: <p>(Check one)</p> <ul style="list-style-type: none">--AFDC levels in Supplement 1--Medically needy level in Supplement 1--Other: \$ <p>b. Amounts for health care expenses described below that have not been deducted under 3.c. above (i.e., for an institutionalized individual with a community spouse), are incurred by and for the institutionalized individual or institutionalized couple, and are not subject to the payment by a third party:</p> <ul style="list-style-type: none">(i) Medicaid, Medicare, and other health insurance premiums, deductibles, or coinsurance charges, or copayments.(ii) Necessary medical or remedial care recognized under State law but not covered under the State plan. (Reasonable limits on amount are described in Supplement 3 to <u>ATTACHMENT 2.6-A.</u>)
435.725 435.733 435.832	<p>5. At the option of the State, as specified below, the following is deducted from any remaining monthly income of an institutionalized individual or an institutionalized couple:</p> <p>A monthly amount for the maintenance of the home of the individual or couple for not longer than 6 months if a physician has certified that the individual, or one member of the institutionalized couple, is likely to return to the home within that period:</p> <p>_____ No.</p> <p>_____ Yes (the applicable amount is shown on page 5a.)</p>

State:

Citation	Condition or Requirement
_____	Amount for maintenance of home is: \$ _____.
_____	Amount for maintenance of home is the actual maintenance costs not to exceed \$ _____.
_____	Amount for maintenance of home is deductible when countable income is determined under §1924(d)(1) of the Act only if the individual's home and the community spouse's home are different.
_____	Amount for maintenance of home is not deductible when countable income is determined under §1924 (d)(1) of the Act.

State:

Citation	Condition or Requirement
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1924 of the Act

15. The agency complies with the provisions of §1924 with respect to income and resource eligibility and post eligibility determinations for individuals who are expected to be institutionalized for at least 30 consecutive days and who have a spouse living in the community.

When applying the formula used to determine the amount of resources in initial eligibility determinations, the State standard for community spouses is:

- the maximum standard permitted by law;
- the minimum standard permitted by law; or
- \$ a standard that is an amount between the minimum and the maximum.

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May 2002

SUPPLEMENT 12 TO
ATTACHMENT 2.6-A
Page 1
OMB No.:0938-0673

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State:

VARIATIONS FROM THE BASIC PERSONAL NEEDS ALLOWANCE

Disclosure Statement for Post-Eligibility Preprint

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is #0938-0673. The time required to complete this information collection is estimated at 3 hours per response, including the time to review instructions, searching existing data resources, gathering the data needed and completing and reviewing the information collection. If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: CMS, 7500 Security Boulevard, N2-14-26, Baltimore, Maryland, 21244-1850 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C., 20503.

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TERRITORIES

Territory:

Citation	Condition or Requirement
B. <u>Posteligibility Treatment of Institutionalized Individuals' Incomes</u>	
	1. The following items are not considered in the posteligibility process:
1902(r)(1) of the Act	a. German Reparations Payments (reparation payments by the Federal Republic of Germany).
105/206 of P. L. 100-383	b. Japanese and Aleutian Restitution Payments.
1. (a) of P.L. 103-286	c. Netherlands Reparation Payments based on Nazi, but not Japanese, persecution (during World War II).
10405 of P. L. 101-239	d. Payments from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In re Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.).
6(h)(2) of P.L. 101-426	e. Radiation Exposure Compensation.
12005 of P. L. 103-66	f. VA pensions limited to \$90 per month under P.L. 38 U.S.C. 5503

Territory:

Citation	Condition or Requirement
436.832	<p data-bbox="380 516 1058 632">2. The following monthly amounts for personal needs are deducted from total monthly income in the application of an institutionalized individual's or couple's income to the cost of institutionalized care:</p> <p data-bbox="477 667 1127 751">a. Personal Needs Allowance (PNA) of Not Less Than \$30 For Individuals and \$60 For Couples For All Institutionalized Persons.</p> <p data-bbox="526 789 808 877">(i) Aged, blind, disabled: Individuals \$ Couples \$</p> <p data-bbox="571 911 1042 938">For the following persons with greater need:</p> <p data-bbox="526 972 1149 1150">Supplement 7 to <u>Attachment 2.6-A</u> describes the greater need describes the basis or formula for determining the deductible amount when a specific amount is not listed above lists the criteria to be met; and, where appropriate, identifies the organizational unit which determines that a criterion is met.</p> <p data-bbox="526 1184 727 1272">(ii) AFDC related: Children \$ Adults \$</p> <p data-bbox="555 1306 1026 1333">For the following persons with greater need:</p> <p data-bbox="526 1367 1149 1545">Supplement 7 to <u>Attachment 2.6-A</u> describes the greater need describes the basis or formula for determining the deductible amount when a specific amount is not listed above, lists the criteria to be met, and, where appropriate, identifies the organizational unit which determines that a criterion is met.</p> <p data-bbox="526 1579 1198 1640">(iii) Individual under age 21 covered in the plan as specified in Item B. 9. of <u>Attachment 2.2 -A</u>. \$</p>

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Territory:

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For the following persons with greater need:

Supplement 7 to Attachment 2.6-A describes the greater need, describes the basis or formula for determining the deductible amount when a specific amount is not listed above; lists the criteria to be met, and, where appropriate, identifies the organizational unit which determines that a criterion is met.

- b. For the maintenance needs of the spouse at home with no other family members. The amount is based on a reasonable assessment of need but does not exceed the higher of the:
 - o Highest mandatory categorically needy level for an individual, or
 - o Medically needy level for an individual.

as selected below:

(Check one)

- Mandatory categorically needy level in Supplement 1
- Medically needy level in Supplement 1
- Other: \$ _____

- c. For the maintenance needs of each family member at home whether or not a spouse is also in the home. The amount must be based on a reasonable assessment of need but must not exceed the higher of the:
 - o AFDC level; or
 - o Medically needy level:

as selected below:

(Check one)

- AFDC levels in Supplement 1
- Medically needy levels in Supplement 1
- Other: \$ _____

Territory:

Citation	Condition or Requirement
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d. Amounts for health care expenses described below that are incurred by and for the institutionalized individual or the institutionalized couple and are not subject to the payment by a third party:

(i) Medicaid, Medicare, and other health insurance premiums, deductibles, or coinsurance charges, and copayments.

(ii) Necessary medical or remedial care recognized under State law but not covered under the State plan. (Reasonable limits on amount are described in Supplement 2 to ATTACHMENT 2.6- A.)

e. A monthly amount for the maintenance of the home of the an institutionalized individual or institutionalized couple for not longer than 6 months, if a physician has certified that the individual, or one member of the institutionalized couple, is likely to return home within that period:

___ No.
___ Yes.

___ Amount for the maintenance of home is: \$_____.

___ Amount for maintenance of home is the actual maintenance costs not to exceed \$_____.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

Territory:

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